


1 of Administrative Hearings of the appeal within ten days after filing the complaint commencing the
2 appeal, pursuant to A.R.S. §41-1092.10.

3 DATED this 25 day of April, 1997.

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5 
6 John A. Greene
7 Director of Insurance

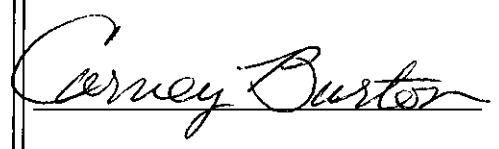
8 A copy of the foregoing mailed
9 this 25th day of April, 1997

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

DEBORAH J. BAGGETT,

Petitioner

No. 97A-004-INS

RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE

HEARING: February 4, 1997

APPEARANCES: Deborah J. Baggett appeared on her own behalf and
Assistant Attorney General Michael J. De La Cruz appeared on behalf of the Arizona
Department of Insurance

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

Based on the entire record, the following recommended Findings of Fact,
Conclusions of Law and Recommended Order are made:

FINDINGS OF FACT

1. On October 22, 1996, Deborah J. Baggett ("Ms. Baggett") filed an application
for a property and casualty agent's license ("the Application") with the Arizona
Department of Insurance ("the Department") and was issued a conditional license in
connection with that application upon her execution of an Agreement for Conditional
License.

2. Ms. Baggett answered "Yes" to Section V, Question A of the Application
which asked "Have you EVER been convicted of a misdemeanor?"

3. Ms. Baggett answered "Yes" to Section V, Question, B of the Application
which asked "Have you EVER been convicted of a felony?"

1 4. Ms. Baggett attached to the Application an explanation and documents
2 relating to her prior criminal convictions which are set forth below. At all times material
3 to this matter Ms. Baggett was also known as Deborah Coleman, Debra Coleman, Debi
4 Mullins and Deborah Ruth.

5 5. On November 20, 1985, the Superior Court, Floyd County, Georgia, in the
6 State v. Debra Coleman, Case No. 85-231-2 ("Case No. 85-231-2"), convicted Ms.
7 Baggett for the offense of Bad Checks, a misdemeanor. The Court sentenced Ms.
8 Baggett to confinement for 12 months. The Court further ordered that the sentence may
9 be served on probation and imposed a \$200.00 fine and ordered that restitution plus
10 service charges be paid on the bad check.

11 6. On October 14, 1985, an Accusation was filed in Superior Court, Floyd
12 County, Georgia, in the State v. Debi Mullins, Case No. 85-252-2 ("Case No. 85-252-2")
13 charging Ms. Baggett on eleven counts for Bad Checks, all misdemeanors.

14 7. On November 22, 1985, Ms. Baggett was convicted in Case No. 85-252-2 of
15 eleven counts for Bad Checks, all misdemeanors. Ms. Baggett was sentenced to 12
16 months confinement on each count which was to be concurrent with each other and
17 consecutive to Case No. 85-231-2. The Court further ordered that the sentence may be
18 served on probation and the terms of the probation included a fine of \$200.00 on 9
19 counts and \$400.00 on 2 counts and restitution plus service charges on the underlying
20 bad checks.

21 8. On September 28, 1989, Ms. Baggett was convicted in Superior Court, Floyd
22 County Georgia, in State v. Deborah Coleman AKA Deborah Ruth, Case No 89-F-8529-
23 2 ("Case No. 89-F-8529-2") charging Ms. Baggett on counts I and II for Bad Checks, a
24 felony. The Court sentenced Ms. Baggett to serve three years confinement on both
25 counts, to be served consecutively. The Court further ordered that the sentence may
26 be served on probation through Women's Out Service Program. Ms. Baggett was fined
27 \$250.00 on each count and ordered to pay restitution.

28 9. On November 29, 1996, the Department revoked Ms. Baggett's conditional
29 license and denied the Application.
30

1 10. On December 5, 1996, Ms. Baggett timely filed a request for hearing on the
2 denial of the Application.

3 11. Ms. Baggett admitted that at the time when she wrote the above-mentioned
4 bad checks, she knew that her checking account did not contain sufficient funds for
5 payment of those checks.

6 12. Ms. Baggett testified that she has successfully completed the terms of her
7 probation in the above-mentioned cases, including the payment of restitution, and has
8 not had any other criminal violations since 1989. Ms. Baggett testified that she
9 received counseling and financial assistance through the Women's' Out Service
10 Program.

11 13 Ms. Baggett affirmatively acknowledged the above-mentioned convictions
12 and admitted that she made mistakes in her past but represented that she had changed
13 and is not the same person as the one who committed those offenses.

14 14. In mitigation, Ms. Baggett provided information surrounding the
15 circumstances which gave rise to the series of bad checks. At the age of 22, Ms
16 Baggett's mother killed Ms. Baggett's father and Ms. Baggett was left the responsibility
17 of taking care of her younger brother and sister. Additionally, Ms. Baggett was
18 physically separated from her husband and had an infant to provide for. At that time,
19 the only job Ms. Baggett could obtain was employment at McDonalds. That job did not
20 provide her with enough money to maintain her household.

21 15. Ms. Baggett testified that other than the underlying two bad checks in Case
22 No. 89-F-8529-2, the other bad checks were written for necessities. As to the two
23 checks in Case No. 89-F-8529-2, Ms. Baggett testified that one check was written to
24 cover her sister's obligation to pay for an automobile and the other check was written to
25 provide payment for her brother's obligation. In both cases, she was acting as the older
26 sister and assuming responsibility for her brother and sister. Although both had
27 represented to her that she would be paid back, that did not occur.

28 16. Ms. Baggett testified that she and her husband own a hamburger restaurant
29 and a convenience store in Ajo. Ms. Baggett hires employees who are on probation
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1 with the hope that she can make a difference in their lives. Ms. Baggett also works
2 part-time for Phillips Insurance Agency. From December 1995, through October 1996,
3 Ms. Baggett worked full time for the Phillips Agency where she performed typing, filing,
4 and handled the moneys received by the agency.

5 17. Ms. Baggett demonstrated that she has paid her debt to society for the
6 above-mentioned criminal offenses and that she has become an active member of her
7 community.

8 18. Ms. Baggett presented character letters from the pastor in the community, a
9 client of the Phillips agency, her brother and a woman who worked with Ms. Baggett
10 while she was on probation in Georgia. The individuals who authored those letters
11 were not present at the hearing and counsel for the Department did not have an
12 opportunity to cross-examine those individuals. Therefore, those letters were given
13 very little weight.

14 19. Ms. Baggett was a sincere and credible witness and the Department did not
15 present credible evidence to refute Ms. Baggett's testimony as set forth above.
16

17 CONCLUSIONS OF LAW

18 1. The Director has jurisdiction over this matter pursuant to A.R.S. §20-161.

19 2. The conduct of Ms. Baggett as set forth above in the Findings of Fact
20 constitutes a record of dishonesty on the part of Ms. Baggett in business or financial
21 matters pursuant to A.R.S. §20-290 (B)(2).

22 3. Ms. Baggett's felony conviction in Case No. 89-F-8529-2 constitutes a record
23 of conviction by final judgment of a felony involving moral turpitude within the meaning
24 of A.R.S. §20-290 (B) (6).

25 4. Pursuant to A.R.S. §20-290 (B)(2) and 20-290(B)(6), the Director has
26 discretionary authority to grant or deny the Application.

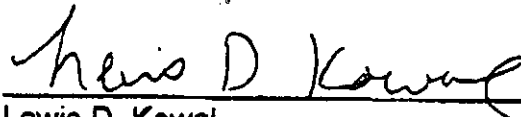
27 5. Notwithstanding the prior conduct and convictions of Ms. Baggett, Ms.
28 Baggett sustained her burden of proof by establishing that she possesses the requisite
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1 qualifications to be licensed by the Department as a property and casualty insurance
2 agent.

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4 **RECOMMENDED ORDER**

5 Under the particular facts and circumstances of this case and the evidence
6 presented, including but not limited to the age of Ms. Baggett at the time of the criminal
7 offenses, the duration of time that has elapsed and Ms. Baggett's employment history
8 and involvement in her community since those offenses, the Administrative Law Judge
9 recommends that Deborah J. Baggett's application for an individual property and
10 casualty insurance agent license submitted to the Department on October 22, 1996 be
11 granted.

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13 Done this day, February 18, 1997.

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17 Lewis D. Kowal
18 Administrative Law Judge

19
20 Original transmitted by mail this
21 19 day of February, 1997, to:

22 John A. Greene
23 Director
24 ATTN: Curvey Burton
25 Department of Insurance
26 2910 North 44th Street, #210
27 Phoenix, AZ 85018-7256

28 By 